

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
www.montgomerycountymd.gov/content/council/boa/index.asp

(240) 777-6600

Case No. S-2862

PETITION OF ELLA LICHTENBERG

OPINION OF THE BOARD
(Opinion Adopted April 24, 2013)
(Effective Date of Opinion: June 20, 2013)

Case No. S-2862 is an application for a special exception, under Section 59-G-2.00 of the Montgomery County Zoning Ordinance, to allow an accessory apartment. The subject property is Lot 22, Block G, Parkview Subdivision, located at 9237 East Parkhill Drive, Bethesda, Maryland, 20814, in the R-60 Zone.

The Hearing Examiner for Montgomery County held a hearing on the application on February 28, 2013, closed the record in the case on March 11, 2013, and on April 10, 2013 issued a Report and Recommendation for approval of the special exception.

Decision of the Board: **Special Exception Granted** Subject to
the Conditions Enumerated Below.

The Board of Appeals considered the Report and Recommendation at its Worksession on April 24, 2013. After careful consideration and review of the record in the case, the Board adopts the Report and Recommendation and grants the special exception, subject to the following conditions:

1. Petitioner is bound by her testimony, representations and exhibits of record to the extent that such testimony and evidence are identified in the Hearing Examiner's Report and Recommendation and in this Opinion;
2. Petitioner must comply with the conditions set forth in the Memorandum of Robert Goff, Housing Code Inspector, Division of Housing and Code Enforcement (Exhibit 15). This list includes Mr. Goff's amendments made during the hearing:

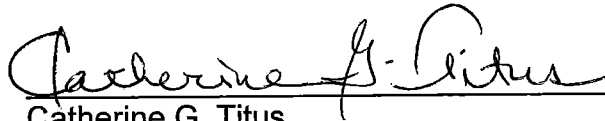
- a. Install egress window in bedroom. Window must be no more than 44" from the floor to the window opening. Window must be at least 5 sq. feet opening.
 - b. Install bathtub or shower to make a full bath.
 - c. Install full kitchen which will include a refrigerator, stove, sink, cabinets and counter tops.
 - d. Install wall to block HVAC room from kitchen.
 - e. Install door at bottom of steps to block off accessory apartment from the main house.
 - f. Install exterior light fixture on right [south] side of house to illuminate the slate walkway to the accessory apartment entrance. Petitioner can use low-voltage ground lights to illuminate the slate walkway to the accessory apartment as an alternate to installing a motion sensor light fixture to the dwelling.
 - g. Install exterior light fixture over the door to accessory apartment.
 - h. Install smoke detector outside of bedroom.
 - i. The accessory apartment is a total of 451.9 square feet. The habitable space of the accessory apartment is 403 square feet. Two (2) unrelated persons or no more than a family of three (3) can occupy the accessory apartment.
 - j. Owner must obtain all permits and must have final approval before the accessory apartment can be occupied.
 - k. The driveway can accommodate 2 cars. The carport can accommodate one car. There is off-street parking (No permits needed).
 - l. All required building, electrical, and plumbing permits must be obtained and finalized before the unit may be occupied.
3. Petitioner must comply with the determination of the Housing Code Inspector as to the limits on occupancy in the accessory apartment and must comply with any other directions of the Housing Code Inspector to ensure safe and code-compliant occupancy;
4. Petitioner will replace the 150 watt bulbs being used in the existing side flood light fixture with standard residential bulbs that are 100 watts or less;
5. Petitioner must occupy one of the dwelling units on the lot on which the accessory apartment is located;
6. The accessory apartment must not be located on a lot that is occupied by a family of unrelated persons, or where there is a guest room for rent, a boardinghouse or registered living unit;
7. Petitioner must not receive compensation for the occupancy of more than

one dwelling unit; and

8. Petitioner must obtain and satisfy the requirements of all licenses and permits, including but not limited to building permits and use and occupancy permits necessary to occupy the special exception premises and operate the special exception as granted herein. Petitioner shall at all times ensure that the special exception use and premises comply with all applicable codes (including but not limited to building, life safety and handicapped accessibility requirements), regulations, directives and other governmental requirements.

On a motion by Carolyn J. Shawaker, seconded by Stanley B. Boyd, with John H. Pentecost, David K. Perdue, Vice-Chair, and Catherine G. Titus, Chair in agreement the Board adopted the following Resolution:

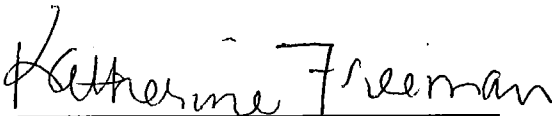
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Catherine G. Titus

Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 20th day of June, 2013.



Katherine Freeman
Executive Director

NOTE:

See Section 59-A-4.53 of the Zoning Ordinance regarding the twenty-four months' period within which the special exception granted by the Board must be exercised.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See

Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.